

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANGEL SOTO,	:	CIVIL ACTION
Petitioner,	:	
	:	
v.	:	NO. 06-3140
	:	
JAMES T. WYNDER, et al.,	:	
Respondents.	:	

ORDER

Petitioner has filed objections to the Report and Recommendation of Magistrate Judge Linda K. Caracappa. It is clear, however, that the doctrine of exhaustion requires in this case that the appeal that petitioner filed from the PCRA court decision of November 21, 2006 to the Pennsylvania Superior Court be determined by that court. An order follows.

AND NOW, this 16th day of February, 2007, upon careful and independent consideration of the petition for Writ of Habeas Corpus, and after review of the Report and Recommendation of United States Magistrate Judge Linda K. Caracappa, and the Petitioner's objections thereto, it is **SO ORDERED** that:

1. The Report and Recommendation is APPROVED and ADOPTED.
2. The Petition for Writ of Habeas Corpus is DENIED without prejudice.
3. There is no probable cause to issue a certificate of appealability, because Petitioner has made no substantial showing of the denial of any constitutional right.
4. The Clerk of Court shall mark this case CLOSED for statistical purposes.

BY THE COURT:

s/ Ronald L. Buckwalter, S. J.
RONALD L. BUCKWALTER, S.J.